



**California Department of Fish and Wildlife
Bay Delta Region
2825 CORDELIA ROAD, SUITE 100
FAIRFIELD, CA 94534**

California Endangered Species Act

Incidental Take Permit No. 2081-2020-052-03

INTERSTATE-580 SAFETY LIGHTING AND POWER SOURCE INSTALLATION PROJECT

Authority: This California Endangered Species Act (CESA) Incidental Take Permit (ITP) is issued by the California Department of Fish and Wildlife (CDFW) pursuant to Fish and Game Code section 2081, subdivisions (b) and (c), and California Code of Regulations, Title 14, section 783.0 et seq. CESA prohibits the take¹ of any species of wildlife designated by the California Fish and Game Commission as an endangered, threatened, or candidate species.² CDFW may authorize the take of any such species by permit if the conditions set forth in Fish and Game Code section 2081, subdivisions (b) and (c) are met. (See Cal. Code Regs., tit. 14, § 783.4).

Permittee: California Department of Transportation, District 4
Principal Officer: Emmanuel Okereke, Project Manager
Contact Person: Shelby Goss, (510) 549-6814
Mailing Address: 111 Grand Avenue, Oakland, CA 94612

Effective Date and Expiration Date of this ITP:

This ITP shall be executed in duplicate original form and shall become effective once a duplicate original is acknowledged by signature of the Permittee on the last page of this ITP and returned to CDFW's Habitat Conservation Planning Branch at the address listed in the Notices section of this ITP. Unless renewed by CDFW, this ITP's authorization to take the Covered Species shall expire on **December 31, 2025**.

Notwithstanding the expiration date on the take authorization provided by this ITP, Permittee's obligations pursuant to this ITP do not end until CDFW accepts as complete the Permittee's Final Mitigation Report required by Condition of Approval 6.7 of this ITP.

¹Pursuant to Fish and Game Code section 86, "take" means hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill." (See also *Environmental Protection Information Center v. California Department of Forestry and Fire Protection* (2008) 44 Cal.4th 459, 507 [for purposes of incidental take permitting under Fish and Game Code section 2081, subdivision (b), "take" ... means to catch, capture or kill]).

²The definition of an endangered, threatened, and candidate species for purposes of CESA are found in Fish and Game Code sections 2062, 2067, and 2068, respectively.

Project Location:

The Interstate 580 (I-580) Safety Lighting and Power Source Installation Project (Project) is located along I-580 from the West Grant Line Road undercrossing at Post-Mile (PM) 1.3 to the North Flynn Road overcrossing (PM 6.0) east of the City of Livermore, Alameda County in the state of California (Figure 1). The Project falls within the Altamont and Midway, United States Geological Survey (USGS) 7.5-minute topographic quadrangles.

Project Description:

The Project is limited to the improvement of the existing roadway conditions and enhancement of traffic safety by installing lighting along eastbound I-580 from West Grant Line Road undercrossing (PM 1.3) to North Flynn Road (PM 6.0) overcrossing east of the City of Livermore in Alameda County. The Project will install 500 feet of new concrete barrier, 48 new power poles and two underground electrical vaults on the southern side of eastbound I-580 to provide power for the safety lighting (See Figure 1, 2 and 3).

Safety Lighting. One hundred and twenty (120) new light-emitting diode (LED) lighting fixtures will be installed along eastbound I-580. Approximately every 200 feet in the median, close to the inside shoulder as specified in Figure 3. The lighting fixtures will be single luminaire with an 85-watt (<4,000 Kelvin) LED, mounted on a 15-foot-long mast arm installed at a height of 35 feet. All lighting fixtures will be fitted with manufacture installed front-side shields to limit the illumination of areas outside the paved areas on the southside of I-580. Illumination of non-paved areas south of I-580 will not exceed 0.5 lux or 0.05 foot-candles (Figure 4). The light foundations, required pull boxes, trench excavations, trenching, and subterranean conduit have been completed as a component of a prior project. The power sources to the lights will come from outside of the California Department of Transportation (Caltrans) Right of Way (ROW). Electrical cable for the lights will be installed as part of this Project.

Concrete Barriers. The existing concrete barrier at PM 2.7 will be extended by 500 feet to the east towards Grant Line Road (Figure 2). The concrete barrier will act as both a safety barrier to prevent errant vehicles hitting an existing concrete headwall and to provide shading of aquatic features on the southside of I-580 from the newly installed light fixtures. The concrete barrier will measure 3 feet wide and require 10-inch-deep anchoring on the front and backside. Installation will result in 15.43 cubic yards of excavation and an approximate equal amount of backfill. The barrier will create 0.03 acres of permanent impact and 0.11 acres of temporary impact.

Utilities. To provide power to the lights, Pacific Gas and Electric (PG&E), under an encroachment will install new underground and overhead electrical lines and power poles. New subterranean electrical line will be installed within existing conduit from the north side of the Grant Line Road westbound on-ramp to the south side of the Grant Line Road eastbound off-ramp, where the subterranean power lines will transition to pole mounted overhead power lines. An existing pull box will be replaced by a 4-foot by 6.5-foot junction box. A new trench

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will be excavated to connect the electric line to Utility Pole Number (No.) 1. The overhead electrical lines will extend westward and will require the installation of 48 wooden power poles, installed approximately 200 feet apart. New overhead electrical lines will be installed from PM 1.5 to PM 4.7, totaling approximately 3.2 miles or 16,896 linear feet. The power poles and associated electrical lines will be south of, adjacent to, and parallel to eastbound I-580.

Caltrans will also supply the power across eastbound I-580 at Utility Pole No. 21 and No. 48, and the electrical lines will be directionally bored under eastbound I-580 to provide the power for the freeway lighting. At these two locations, service risers, conduits, and pull/junction boxes will be constructed in 20-foot by 80-foot areas at the south sides, and transformer/cabinets will be constructed in 10-foot by 20-foot areas in the median behind the existing concrete barrier. The electrical lines will be installed in the conduit and connected to the lighting system. The installation of 48 wooden power poles, two utility poles, pull/junction boxes, and transformer/cabinets will result in 34.22 cubic yards of excavation and approximately an equal amount of backfill, 0.05 acre of permanent impacts and 9.01 acres of temporary impacts will occur.

Access and Staging. Caltrans will use lane and shoulder closures during non-peak hours to accomplish construction activities. Temporary barriers (K-rail) will be used with other traffic control devices to close lanes and ramps, and the available paved surfaces behind the K-rail will provide temporary storage, staging, or laydown areas. The contractor may use the impact areas identified in Figure 2 for construction staging and access. All other Caltrans ROW within the Project will be designated and flagged as Environmentally Sensitive Areas (ESAs), which the contractor may not enter.

Covered Species Subject to Take Authorization Provided by this ITP:

This ITP covers the following species:

Name	CESA Status
1. California Tiger Salamander (<i>Ambystoma californiense</i>)	Threatened ³

These species and only these species are the “Covered Species” for the purposes of this ITP.

Impacts of the Taking on Covered Species:

Project activities and their resulting impacts are expected to result in the incidental take of individuals of the Covered Species. The activities described above expected to result in incidental take of individuals of the Covered Species include initial site preparation; heavy equipment operation; handling of stockpiles and stored materials; foot traffic; grading;

³See Cal. Code Regs. tit. 14 § 670.5, subd. (b)(3)(G).

trenching; concrete barrier wall installation, light pole installation and culvert repair or replacement activities; and/or relocation activities prescribed by this ITP (Covered Activities). Incidental take of individuals of the Covered Species in the form of mortality (“kill”) may occur as a result of Covered Activities such as destruction of burrows and dens that the Covered Species inhabit; being crushed under moving vehicles and equipment; disturbance in the vicinity of dens or burrows; desiccation or predation along fence lines and other barriers to movement; and habitat alteration and decreased survivorship resulting from the installation of additional light sources, resulting in increased light pollution to Covered Species habitat. Incidental take of individuals of the Covered Species may also occur from the Covered Activities in the form of pursue, catch, capture, or attempt to do so from capture and relocation attempts as required by this ITP. Relocation could result in mortality, injury, and/or disease transmission to Covered Species. The areas where authorized take of the Covered Species is expected to occur are within the Biological Study Area (BSA) of approximately 160.19 acres and includes the section of I-580 between PM 1.3 to 6.0 (Figure 1) (collectively, the Project Area).

The Project is expected to impact 29.56 acres of suitable habitat for Covered Species (Figure 2 and 4) within the I-580 corridor, impacts to California tiger salamander (CTS) suitable habitat include the permanent loss of 0.04 acres, the temporary loss of 7.97 acres, and 21.55 acres of indirect impact resulting from additional light source installations (Figure 4). Impacts of the authorized taking also include adverse impacts to the Covered Species related to temporal losses, increased habitat fragmentation and edge effects, and the Project’s incremental contribution to cumulative impacts (indirect impacts). These impacts include; stress and abnormal behavior resulting from additional light pollution, stress resulting from construction noise and vibrations and from capture and relocation; temporary and permanent habitat loss; and long-term effects due to increased pollution, increased competition for food and space, and increased vulnerability to predation.

Incidental Take Authorization of Covered Species:

This ITP authorizes incidental take of the Covered Species and only the Covered Species. With respect to incidental take of the Covered Species, CDFW authorizes the Permittee, its employees, contractors, and agents to take Covered Species incidentally in carrying out the Covered Activities, subject to the limitations described in this section and the Conditions of Approval identified below. This ITP does not authorize take of Covered Species from activities outside the scope of the Covered Activities, take of Covered Species outside of the Project Area, take of Covered Species resulting from violation of this ITP, or intentional take of Covered Species except for capture and relocation of Covered Species as authorized by this ITP.

Conditions of Approval:

Unless specified otherwise, the following measures apply to all Covered Activities within the Project Area, including areas used for vehicular ingress and egress, staging and parking, and

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noise and vibration generating activities that may cause take. CDFW's issuance of this ITP and Permittee's authorization to take the Covered Species are subject to Permittee's compliance with and implementation of the following Conditions of Approval:

- 1. Legal Compliance:** Permittee shall comply with all applicable federal, state, and local laws in existence on the effective date of this ITP or adopted thereafter.
- 2. CEQA Compliance:** Permittee shall implement and adhere to the mitigation measures related to the Covered Species in the Biological Resources section of Interstate 580 Safety Lighting and Power Supply Installation Project Mitigated Negative Declaration (MND) (SCH No. 2019109033) adopted by the California Department of Transportation on May 19, 2020 as lead agency for the Project pursuant to the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.), unless otherwise conditioned herein.
- 3. ESA Compliance:** Permittee shall implement and adhere to the terms and conditions related to the Covered Species in the Formal Consultation on the Interstate 580 Safety Lighting and Power Source Installation Project, Alameda County, California (Caltrans EA 04-0K680) (Biological Opinion 08ESMF00-2019-F-0511-1) for the Project pursuant to the Federal Endangered Species Act (ESA). For purposes of this ITP, where the terms and conditions for the Covered Species in the federal authorization are less protective of the Covered Species or otherwise conflict with this ITP, the conditions of approval set forth in this ITP shall control.
- 4. ITP Time Frame Compliance:** Permittee shall fully implement and adhere to the conditions of this ITP within the time frames set forth below and as set forth in the Mitigation Monitoring and Reporting Program (MMRP), which is included as Attachment 1 to this ITP.
- 5. General Provisions:**
 - 5.1. Designated Representative. Before starting Covered Activities, Permittee shall designate a representative (Designated Representative) responsible for communications with CDFW and overseeing compliance with this ITP. Permittee shall notify CDFW in writing before starting Covered Activities of the Designated Representative's name, business address, and contact information, and shall notify CDFW in writing if a substitute Designated Representative is selected or identified at any time during the term of this ITP.
 - 5.2. Designated Biologist(s). Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of a biological monitor (Designated Biologist) at least 30 days before starting Covered Activities. Permittee shall ensure that the Designated Biologist is knowledgeable and experienced in the biology, natural history collecting and handling of the Covered Species. The

Designated Biologist shall be responsible for monitoring Covered Activities to help minimize and fully mitigate or avoid the incidental take of individual Covered Species and to minimize disturbance of Covered Species' habitat. Permittee shall obtain CDFW approval of the Designated Biologist in writing before starting Covered Activities, and shall also obtain approval in advance in writing if the Designated Biologist must be changed.

- 5.3. Designated Biologist Authority. To ensure compliance with the Conditions of Approval of this ITP, the Designated Biologist shall have authority to immediately stop any activity that does not comply with this ITP, and/or to order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species.
- 5.3.1. Permittee shall accommodate the Designated Biologist in the performance of his/her duties. If the Designated Biologist is unable to comply with the ITP due to a conflict with Project construction, then the Designated Biologist shall notify the CDFW representative immediately.
- 5.4. Education Program. Permittee shall conduct an education program for all persons employed or otherwise working in the Project Area before performing any work. The program shall consist of a presentation from the Designated Biologist that includes a discussion of the biology and general behavior of the Covered Species, information about the distribution and habitat needs of the Covered Species, sensitivity of the Covered Species to human activities, its status pursuant to CESA including legal protection, recovery efforts, penalties for violations and Project-specific protective measures described in this ITP. Permittee shall provide interpretation for non-English speaking workers, and the same instruction shall be provided to any new workers before they are authorized to perform work in the Project Area. Permittee shall prepare and distribute wallet-sized cards or a fact sheet handout containing this information for workers to carry in the Project Area. Upon completion of the program, employees shall sign a form stating they attended the program and understand all protection measures. This training shall be repeated at least once annually for long-term and/or permanent employees that will be conducting work in the Project Area. The pamphlet and sign in sheet shall be submitted to CDFW upon request and included in the Annual and Final Construction Reports as described in the conditions of this ITP.
- 5.5. Construction Monitoring Notebook. The Designated Biologist shall maintain a construction-monitoring notebook on-site throughout the construction period, which shall include a copy of this ITP with attachments and a list of signatures of all personnel who have successfully completed the education program. Permittee shall ensure a copy of the construction-monitoring notebook is available for review at the Project site upon request by CDFW.
- 5.6. Erosion Control. Erosion and sediment control measures shall be installed prior to earth-moving Covered Activities. Permittee shall utilize erosion control measures

throughout all phases of the Project where sediment runoff from exposed slopes could leave the Project Area and/or enter a drainage, stream, or ponded area. No phase of the Project that may cause the introduction of sediments into a drainage, stream or ponded area may be started if that phase and its associated erosion control measures cannot be completed prior to the onset of a storm. Permittee shall consult 72-hour weather forecasts from the National Weather Service prior to the startup of any phase of the Project that may result in sediment runoff to a drainage, stream, or ponded area. The Designated Biologist shall monitor erosion control measures before, during, and after each storm event and Permittee shall repair and/or replace ineffective measures immediately. Following completion of the Project, Permittee shall implement erosion control measures for all disturbed areas, which may include reseeding using a noxious weed-free locally native seed mix, hydroseeding, jute matting, or tackifying agents to stabilize soils and dust control.

- 5.7. Erosion Control Materials. Permittee shall prohibit use of erosion control materials potentially harmful to Covered Species, such as plastic or mono-filament netting (erosion control matting, geo-textile material and rock slope protection filter fabric) or similar material, in potential Covered Species' habitat. Tightly woven silt fencing material or woven organic materials such as coir logs (without mono-filament netting) shall be permitted.
- 5.8. Dogs Prohibition. Permittee shall prohibit domestic dogs from the Project Area and site access routes during Covered Activities, except those in the possession of local, state, or federal law enforcement officials.
- 5.9. Delineation of Property Boundaries. Before starting Covered Activities along each part of the route in active construction, Permittee shall clearly delineate the boundaries of the Project Area with fencing, stakes, or flags. Permittee shall restrict all Covered Activities to within the fenced, staked, or flagged areas. Permittee shall maintain all fencing, stakes, and flags until the completion of Covered Activities.
- 5.10. Delineation of Habitat. Permittee shall clearly delineate habitat of the Covered Species within the Project Area with posted signs, posting stakes, flags, and/or rope or cord, and place fencing as necessary to minimize the disturbance of Covered Species' habitat.
- 5.11. Project Access. Project-related personnel shall access the Project Area using existing routes, or routes identified in the Project Description and shall not cross Covered Species' habitat outside of or en route to the Project Area. Permittee shall restrict Project-related vehicle traffic to established roads, staging, and parking areas. If Permittee determines construction of routes for travel are necessary outside of the Project Area, the Designated Representative shall contact CDFW for written approval before carrying out such an activity. CDFW may require an amendment to this ITP,

among other reasons, if additional take of Covered Species will occur as a result of the Project modification.

- 5.12. Staging Areas. Permittee shall confine all Project-related parking, storage areas, laydown sites, equipment storage, and any other surface-disturbing activities to the locations noted in the ITP application with the exception that any staging area cannot occur within 250 feet of a water feature or burrows and dens, unless otherwise approved by CDFW. In addition, all staging areas must be surrounded by exclusionary fencing as specified in Condition of Approval 7.6. Permittee shall not use or cross Covered Species' habitat outside of the marked Project staging area.
- 5.13. Equipment Washing Station and Sanitization. All equipment shall be washed or sanitized prior to entering the Project Area. Staging areas shall be equipped with wash stations to prevent the spread of invasive species and disease from areas outside the Project boundaries.
- 5.14. Hazardous Waste. Permittee shall immediately stop and, pursuant to pertinent state and federal statutes and regulations, arrange for repair and clean up by qualified individuals of any fuel or hazardous waste leaks or spills at the time of occurrence, or as soon as it is safe to do so. Permittee shall exclude the storage and handling of hazardous materials from the Project Area and shall properly contain and dispose of any unused or leftover hazardous products off-site.
- 5.15. CDFW Access. Permittee shall provide CDFW staff with reasonable access to the Project and mitigation lands under Permittee control and shall otherwise fully cooperate with CDFW efforts to verify compliance with or effectiveness of mitigation measures set forth in this ITP.
- 5.16. Construction Schedule. Permittee shall submit a final construction schedule to CDFW within 14 calendar days prior to the start of Project construction activities. The construction schedule shall identify the approximate beginning and completion date of Project activities. During the Project construction period, Permittee shall notify CDFW of any major changes in the construction schedule at least seven (7) days prior to the change being implemented.
- 5.17. Refuse Removal. Throughout the course of the Project and upon completion of Covered Activities, Permittee shall remove from the Project Area and properly dispose of all trash, debris, temporary fill and construction refuse, including, but not limited to, broken equipment parts, wrapping material, cords, cables, wire, rope, strapping, twine, buckets, metal or plastic containers, and boxes.
- 5.18. Temporary Impact Criteria. To be considered a temporary impact, all temporary impacts must meet the following criteria: (1) recontouring, replanting and seeding of each temporary impact area shall occur by October 15 of the year of the impact, and

no additional ground disturbing activities shall occur; (2) if the impact area is within 1,000 feet of an aquatic feature, all work shall be completed within this area and exclusion fencing shall be removed by October 15 of the same calendar year, allowing the Covered Species unrestricted access between upland and aquatic habitat; and (3) temporary impact sites have achieved vegetation success as noted in Condition of Approval 8.6. Impacts that do not meet these criteria will require additional mitigation and an amendment to this ITP shall be required.

6. Monitoring, Notification and Reporting Provisions:

- 6.1. Notification Before Commencement. The Designated Representative shall notify CDFW 14 calendar days before starting Covered Activities and shall document compliance with all pre-Project Conditions of Approval before starting Covered Activities.
- 6.2. Notification of Non-compliance. The Designated Representative and Designated Biologist shall immediately notify CDFW in writing if it determines that the Permittee is not in compliance with any Condition of Approval of this ITP, including but not limited to any actual or anticipated failure to implement measures within the time periods indicated in this ITP and/or the MMRP. The Designated Representative and Designated Biologist shall report any non-compliance with this ITP to CDFW within 24 hours.
- 6.3. Compliance Monitoring. The Designated Biologist shall be on-site daily when Covered Activities occur. The Designated Biologist shall conduct compliance inspections to (1) minimize incidental take of the Covered Species; (2) prevent unlawful take of species; (3) check for compliance with all measures of this ITP; (4) check all exclusion zones; and (5) ensure that signs, stakes, and fencing are intact, and that Covered Activities are only occurring in the Project Area. The Designated Biologist shall prepare daily written observation and inspection records summarizing the following: a) oversight activities and compliance inspections, b) observations of Covered Species and their sign, c) survey results, and d) monitoring activities required by this ITP. The Designated Biologist shall conduct compliance inspections a minimum of twice per week during periods of inactivity and after clearing, grubbing, and grading are completed.
- 6.4. Monthly Compliance Report. The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Condition of Approval 5.5 into a Monthly Compliance Report and submit it to CDFW along with a copy of the MMRP table with notes showing the current implementation status of each mitigation measure. Monthly Compliance Reports shall detail Project impacts in acres, separated into permanent and temporary impacts. The reports shall: (1) identify and describe the temporary and permanent impacts to date; (2) describe the location, acres, and type of restoration actions that have occurred; and (3) include all

monitoring information required by Condition of Approval 8.6. Monthly Compliance Reports shall be submitted to the CDFW offices listed in the Notices section of this ITP and/or via e-mail to CDFW's Regional Representative and Headquarters CESA Program. At the time of this ITP's approval, the CDFW Regional Representative is Robert Stanley (Robert.Stanley@wildlife.ca.gov) and Headquarters CESA Program email is CESA@wildlife.ca.gov. CDFW may at any time increase the timing and number of compliance inspections and reports required under this provision depending upon the results of previous compliance inspections. If CDFW determines the reporting schedule must be changed, CDFW will notify Permittee in writing of the new reporting schedule.

- 6.5. CNDDDB Observations. The Designated Biologist shall submit all observations of Covered Species to CDFW's California Natural Diversity Database (CNDDDB) within 60 calendar days of the observation and the Designated Biologist shall include copies of the submitted forms with the next Monthly Compliance Report or Final Construction Report, whichever is submitted first relative to the observation.
- 6.6. Final Construction Report. No later than 30 days after completion of the Project, Permittee shall provide CDFW with a Final Construction Report. The Designated Biologist shall prepare the Final Construction Report which shall include, at a minimum: (1) a summary of all Monthly Compliance Reports; (2) a copy of the table in the MMRP with notes showing when each of the mitigation measures was implemented; (3) all available information about Project-related incidental take of the Covered Species; (4) information about other Project impacts on the Covered Species; (5) beginning and ending dates of Covered Activities; (6) an assessment of the effectiveness of this ITP's Conditions of Approval in minimizing and fully mitigating Project impacts of the taking on Covered Species; (7) recommendations on how mitigation measures might be changed to more effectively minimize take and mitigate the impacts of future Projects on the Covered Species; (8) Final Isolux Diagram and Lighting Impact Analysis; and (9) any other pertinent information.
- 6.7. Notification of Take or Injury. Permittee shall immediately notify the Designated Biologist if a Covered Species is taken or injured by a Project-related activity, or if a Covered Species is otherwise found dead or injured within the vicinity of the Project. The Designated Biologist or Designated Representative shall provide initial notification using the contact information below within 24 hours. The initial notification to CDFW shall include information regarding the location, species, and number of animals taken or injured and the ITP Number. Following initial notification, Permittee shall send CDFW a written report within two business days. The report shall include the date and time of the finding or incident, location of the animal or carcass, and if possible provide a photograph, explanation as to cause of take or injury, and any other pertinent information. The report and notification shall also be submitted to CDFW's Regional Representative Robert Stanley, (707) 339-6534 or Robert.Stanley@wildlife.ca.gov.

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7. Take Minimization Measures:

The following requirements are intended to ensure the minimization of incidental take of Covered Species in the Project Area during Covered Activities. Permittee shall implement and adhere to the following conditions to minimize take of Covered Species:

- 7.1. Time of Day Work Restriction. Any activity that shall occur in a previously paved area shall be allowed to occur at any time provided all applicable avoidance and minimization measures for Covered Species are adhered to as specified in this ITP. For any activity that will clear, grub, remove existing unpaved features, excavate embankments, construct drainage features or excavate soil that is not covered by a paved area the Permittee shall terminate all Covered Activities 30 minutes before sunset and shall not resume Covered Activities until 30 minutes after sunrise unless approved by the CDFW Representative in writing. The Permittee shall use sunrise and sunset times established by the U.S. Naval Observatory Astronomical Applications Department for determining when Covered Activities shall terminate and resume.
- 7.2. Seasonal Work Window. Permittee shall limit ground-disturbing Covered Activities involving construction and heavy equipment use in upland dispersal habitat (such as excavation, grading, trenching and fill activities) to the period between April 15 and October 15, until the expiration of this ITP. All in water work within CTS habitat shall be limited to occur from June 15 to October 15.
- 7.3. Vehicle Speed Limit. All vehicles shall be limited to a speed limit of 20 m.p.h. or less on main roads and access roads at all times within the boundary limits of active construction.
- 7.4. Daily Clearance Surveys. The Designated Biologist will conduct daily pre-construction surveys prior to the initiation of work each day within the Project Area throughout the course of the Project. The Designated Biologist shall walk the Project Area and access roads while conducting visual encounter surveys in areas subject to vegetation clearing, grubbing, grading, cut and fill, or other ground disturbing activities. The surveys shall also include the inspection of parked vehicles or equipment prior to their use each day. The Permittee will ensure that a Designated Biologist inspects all staged materials each morning prior to the initiation of construction activities involving disturbance of material piles. Survey notes shall be kept and recorded as specified in this ITP. During active construction multiple biologists shall be required on-site, when needed in circumstances of line-of-sight constraints to ensure all active equipment has a designated biologist within view of the Covered Activities.
- 7.5. Environmentally Sensitive Areas. Prior to the start of construction, for each season, an ESA plan shall be submitted to CDFW for review 30 days prior to the initiation of construction. The ESA plan shall be clearly delineated using high-visibility orange fencing as the primary option to protect sensitive habitats, other options approved in

advance by CDFW may be authorized. The ESA signification system will remain in place throughout the duration of the Project. It may be removed during the wet season (and subsequently re-installed) if needed to prevent materials from being washed away. The final Project plans will depict all locations where ESA signification will be installed and how it will be installed. The bid solicitation package special provisions will clearly describe acceptable signification material and prohibited construction-related activities, vehicle operation, material and equipment storage, and other surface-disturbing activities within ESAs. ESA materials shall be installed as directed by a Designated Biologist and maintained in good repair throughout the Project as needed.

- 7.6. Covered Species Exclusionary Fencing. An exclusionary fencing system plan shall be submitted for CDFW approval 30 days prior to the initiation of construction each season. Exclusionary fencing for electrical pole installation and the associated access routes may not be required if work is completed between July 15 and October 15 in consultation with CDFW via written request and written approval. If the exclusionary fencing is not employed a detailed monitoring plan shall be submitted to CDFW prior to the initiation of work. All applicable exclusionary fencing systems shall not have gaps or breaks and shall be required to encompass access roads, staging areas and active construction areas as to not allow outside access of Covered Species into work areas. The plan submission shall be in map form illustrating the proposed alignment with a brief description of the materials to be employed as well as diagram of the fence material and design. All material stockpiles and Project related equipment must be stored within the fenced staging area when not in use.

Immediately following the conclusion of vegetation clearing as specified in Condition of Approval 7.7, the staging area, access roads and Project Area shall be checked for Covered Species and shall have exclusionary fencing installed around them as follows; the fencing will be standard silt fencing at least forty-two (42) inches in height that will be trenched a minimum of four (4) inches into the soil. The soil will then be compacted against both sides of the fence to prevent wildlife from gaining access underneath. The stakes will be placed on the Project side of the fence. No gaps or holes are permitted in the fencing system. Alternative exclusion systems such as PVC panels may also be employed upon written request and approval to CDFW.

Any vegetation outside the direct area of fencing within a three (3) foot perimeter must be cleared to a height of six (6) inches and maintained throughout the project at this height, using vegetation removal and clearing methods as specified in Condition of Approval 7.7. A Designated Biologist must be present during all vegetation removal activities.

Prior to the initiation of construction each day, the fence shall be inspected daily by a Designated Biologist or biological monitor for holes, gaps, or access points, which

shall be repaired upon discovery. The area inside the fence shall also be inspected for trapped Covered Species prior to the initiation of construction each day. If a Covered Species is discovered the Covered Species shall be monitored until it has left the fenced area on its own accord, no work shall occur during this period. If the Covered Species does not leave on its own accord the Designated Biologist with the appropriate approvals may relocate the species in accordance with Condition of Approval 7.15 for Covered Species Relocation.

- 7.7. Vegetation Clearing within Exclusionary Fencing Areas. Areas proposed to be encompassed by exclusionary fencing including staging areas, access routes, and the Project Area will be surveyed as required by the Conditions of Approval in this ITP prior to vegetation removal, installation of fencing and prior to the deployment of any staging or stockpile materials. The vegetation removal will be monitored by a Designated Biologist for the duration of the Project; the Designated Biologist has the authority to stop work if required for any reason in consultation with the Resident Engineer.

The vegetation within these areas shall be mowed or trimmed to a height of six inches, using hand tools, weed-trimmers, and mowers as necessary. No heavy motorized equipment (i.e., tractor) may be employed for vegetation removal without approval from CDFW. No excessive soil disruption and no grubbing or removal of roots systems is permitted during the vegetation clearing for exclusionary fencing areas. The vegetation must be maintained at six inches or less for the duration of the Project. All mowed and trimmed vegetation matter shall be removed from the area to an off-site location. Immediately after vegetation clearing has concluded, exclusionary fencing shall be installed as specified in Condition of Approval 7.6.

- 7.8. Wildlife Exclusion Fencing Refuge Areas/Cover Boards. The Permittee shall provide refuge opportunities in the form of cover boards (at least 2-foot x 2-foot plywood minimum size), along the Covered Species exclusion fence on both sides of the fence. Permittee shall submit a design of the barrier and refuge opportunities no less than 30 days prior to the initiation of construction each season to CDFW for approval. The Designated Biologist shall inspect refuge areas each morning, as well as, during and after rain events. Covered Species within the interior fence should be given the ability to leave on their own accord before active relocation is attempted. All Species found shall be identified, recorded and submitted to CDFW in the Final Construction Report and reported to CNDDDB as specified in this ITP. All wildlife shall be relocated to a safe location outside the Project Area.

- 7.9. Trench Escape and Inspection. To prevent inadvertent entrapment of Covered Species, the Designated Biologist(s) shall oversee the covering of all trenches, holes, sumps, or other excavations with a greater than 1:1 (45 degree) slope of any depth with barrier material (such as hardware cloth) at the close of each working day

such that Covered Species are unable to dig or squeeze under the barrier and become entrapped. The outer two feet of excavation cover shall conform to solid ground so that gaps do not occur between the cover and the ground and secured with soil staples or similar means to prevent gaps. Each morning prior to beginning Covered Activities and immediately before trenches, holes, sumps, or other excavations are back-filled, the Designated Biologist(s) and/or construction foreman/manager shall thoroughly inspect them for Covered Species. Trenches, holes, sumps, or other excavations that are covered long-term shall be inspected at the beginning of each working day to ensure inadvertent entrapment has not occurred. Permittee shall cease all Covered Activities in the vicinity and notify the Designated Biologist(s) immediately if any worker discovers that Covered Species have become trapped. If at any time trapped Covered Species are discovered by the Designated Biologist or anyone else, the Designated Biologist shall capture and relocate the Covered Species to a safe nearby location per Condition of Approval 7.15. If open holes, sumps, trenches or excavations cannot be covered then a temporary barrier shall be installed around any trenches, holes, sumps, or other excavations to prevent Covered Species from becoming trapped.

- 7.10. Inspection of Pipes and Culverts. All construction pipes, culverts, or similar structures that are stored at the Project site for one or more overnight periods shall be securely capped prior to storage or inspected by the Designated Biologist before the pipe is subsequently buried, capped, or otherwise used or moved in any way. If a Covered Species is discovered inside a pipe by the Designated Biologist or anyone else, the Covered Species shall be allowed to leave its own accord, or if it can be safely captured, it shall be relocated by the Designated Biologist to a suitable location outside of the Project Area and in accordance with the Condition of Approval 7.15.
- 7.11. Vehicle and Equipment Inspection. Workers shall inspect for Covered Species under vehicles and equipment before the vehicles and equipment are moved. If a Covered Species is present, the worker shall wait for the Covered Species to move unimpeded to a safe location. Alternatively, the Permittee shall contact the Designated Biologist to determine if the Designated Biologist can safely move the Covered Species in Accordance with Condition of Approval 7.15.
- 7.12. Mark Covered Species Nest/Dens/Burrows. Nests, Dens, Burrows or suitable areas for Covered Species subterranean activities shall be marked by the Designated Biologist within a reasonable dispersal distance of the Project Area to alert biological and work crews to their presence each season using flags, exclusion fencing or a reasonable method accepted in advance by CDFW. Where feasible, an avoidance buffer of 250 feet (the distance may be altered at the discretion of the Designated Biologist in consultation with CDFW) or greater around areas shall be maintained using wildlife exclusion fencing or environmentally sensitive area fencing as specified in this Permit. Nests, Dens and Burrows in areas of impact shall be excavated by

hand to allow the detection and relocation of Covered Species as necessary. Alterations to the hand excavation requirement of dens to employ camera scopes or to utilize powered equipment to remove soil may be authorized by written request to and written approval from CDFW.

- 7.13. Remove Temporary Flagging, Fencing, and Barriers. Permittee shall remove all temporary flagging, fencing, erosion control, temporary work platforms, temporary access road materials, and/or barriers from the Project Area and vicinity of the stream upon completion of Project activities.
- 7.14. Prohibit Introduction of Invasive Species and Disease. Permittee shall conduct Project activities in a manner that prevents the introduction, transfer, and spread of invasive species, including plants, animals, and microbes (e.g., algae, fungi, parasites, bacteria, etc.), from one Project site and/or waterbody to another. Prevention BMPs and guidelines for invasive plants can be found on the Cal-IPC's website at: <http://www.cal-ipc.org/ip/prevention/index.php> and for invasive mussels and aquatic species can be found at the Stop Aquatic Hitchhikers website: <http://www.protectyourwaters.net/>.
- 7.15. Covered Species Relocation Plan. The Designated Biologist(s) shall prepare a Covered Species Relocation Plan (Relocation Plan). The Relocation Plan shall include, but not be limited to, pre-activity survey methodology appropriate for the season, hand excavation, capture, handling, and relocation methods; and identification of where the individuals will be relocated to. The relocation areas shall be identified by the Designated Biologist(s) based upon best suitable habitat available and time of year and approved by CDFW prior to the start of Covered Activities. The Relocation Plan shall be submitted to CDFW for approval prior to the beginning of Covered Activities. Covered Activities anywhere within the Project Area may not proceed until the Relocation Plan is approved in writing by CDFW. Only the approved Designated Biologist(s) are authorized to capture and handle the Covered Species.
- 7.16. Trash Capture Devices Installation Review. Prior to the installation of any trash capture devices, the Permittee shall ensure that a culvert system capable of providing wildlife connectivity for wildlife movement is not blocked by the installation of the trash capture devices. All proposals for trash capture devices installation shall be submitted a minimum of 60 days prior to the initiation of construction. The submission should include a description of the location and images of the culvert inlet and outlet as well as a description of the potential for wildlife to use the structure. Alternative methods of analysis such as game trail cameras may also be employed.
- 7.17. Temporary Project Lighting. All temporary Project lighting associated with construction staging areas, access routes and construction sites shall be shut down upon the completion of work each day and not used as security lighting overnight. Temporary Project lighting on the surface of the road shall be directed towards the

road surface and shall not be directed into areas outside of the road surface to prevent additional light pollution and disruption of nocturnal wildlife activity. Baffles, adjusted mast heights and adjusted reach arms and other various shading devices may be employed to prevent additional light pollution.

7.18. Permanent Project Lighting. All new installations or replacements of previously existing light emitters or bulb types for permanent use within the Project site shall have an output of 2700 kelvin or less, shall be fitted with back-shielding, and the surface area of the light shall be directed so that it does not project into natural lands. The Isolux Analysis baseline of current lighting conditions is illustrated in Figure 4 that establishes the baseline existing conditions and the proposed lighting output of new and replacement emitters over the surface area of natural lands. An Isolux analysis shall also be required upon completion of construction to determine actual light levels. All permanent lighting shall be directed towards the surface of the road and employ adjusted mast height and adjusted reach arm lengths to reduce light pollution into natural lands. Additional mitigation may be required by CDFW if an increase in lighting output is determined to occur onto natural lands greater than the initial projections noted in Figure 4 when compared to the Final Isolux Diagram that measures the real-world lighting outputs.

7.18.1. Permanent Project Lighting Impact Analysis. The following lighting impact analysis is based on the introduction of new lighting to areas in which light pollution was minimal or previously did not exist over 21.55 acres (Figure 4). New or replacement installations of emitters or bulbs shall be limited to 2700K or less and shall employ shielding. If light emissions exceed 2700K and/or shielding is not utilized, an amendment to this ITP shall be required to further analyze lighting impacts. This analysis is site-specific based on the habitat analysis specified in Figure 2 of the biological study area, current light regime and proposed new lighting regime as specified in Figure 4. Within 60 days of project completion, as part of the Final Construction Report, a final Isolux diagram shall be submitted that illustrates field verified lighting impacts. The field verified final Isolux diagram shall be utilized to develop the compensatory mitigation (21.55 acres) for new lighting impacts, based on the analysis specified above in this condition of approval.

7.19. Weather Restrictions. Permittee shall monitor the National Weather Service 72-hour forecast for the Project Area. Covered Activities shall cease if there is a 40 percent chance of precipitation or greater in the National Weather Service 72-hour forecast for the Project Area. Covered Activities may continue 24 hours after the rain ceases if there is less than a 40 percent chance of precipitation in the 24-hour forecast.

7.20. Notification of Non-Native Tiger Salamanders or Hybrids. The Designated Biologist shall immediately notify CDFW if a suspected non-native barred tiger salamander

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(*Ambystoma tigrinum mavortium*) or California tiger salamander/non-native hybrid is found within the Project Area within 24 hours by calling CDFW's Regional Representative. The Designated Biologist shall not release any non-native or hybrid salamanders back to the wild until directed to do so by CDFW. The Designated Biologist shall follow the Covered Species Handling and Injury Condition of Approval outlined in this ITP (Condition of Approval 7.21).

7.21. Covered Species Handling and Injury. If an injured Covered Species is found during the Project term, the Designated Biologist shall evaluate the individual and immediately contact the CDFW Regional Representative, via email and telephone, to discuss the next steps. If the CDFW Regional Representative cannot be contacted immediately, the Designated Biologist shall place the injured individual in a safe and shaded location. Any injured California tiger salamanders shall be placed in a shaded container and kept moist, and shall be handled and assessed according to the *Restraint and Handling of Live Amphibians*, USGS, National Wildlife Health Center (D. Earl Greene, ARMI SOP NO. 100; 16 February 2001; http://www.nwhc.usgs.gov/publications/amphibian_research_procedures/handling_and_restraint.jsp). If the CDFW Regional Representative is not available or has not responded within 15 minutes of initial attempts, then the following steps shall be taken:

- 7.21.1. If the injury to the Covered Species is minor or healing and the individual is likely to survive, the individual shall be released immediately (see Condition of Approval 6.7);
- 7.21.2. If it is determined that the Covered Species has major or serious injuries as result of Project-related activities, then the Designated Biologist shall immediately take it to the Lindsay Wildlife Museum or another CDFW-approved facility. If taken into captivity the individual shall remain in captivity and not be released into the wild unless it has been kept in quarantine and the release is authorized by CDFW and the U.S. Fish and Wildlife Service. Permittee shall bear any costs associated with the care or treatment of such injured Covered Species. The circumstances of the injury, the procedure followed and the final disposition of the injured animal shall be documented in a written incident report as described in Condition of Approval 6.7.

8. Habitat Management Land Acquisition and Restoration:

CDFW has determined that permanent protection and perpetual management of compensatory habitat is necessary and required pursuant to CESA to fully mitigate Project-related impacts of the taking on the Covered Species that will result with implementation of the Covered Activities. This determination is based on factors including an assessment of the importance of the habitat in the Project Area, the extent to which the Covered Activities will impact the habitat, and CDFW's estimate of the acreage required to provide for adequate compensation.

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To meet this requirement, the Permittee shall either purchase 29.64 acres of Covered Species credits from a CDFW-approved mitigation or conservation bank (Condition of Approval 8.2) OR shall provide for both the permanent protection and management of 29.64 acres of Habitat Management (HM) lands pursuant to Condition of Approval 8.3 below and the calculation and deposit of the management funds pursuant to Condition of Approval 8.4 below. Permanent protection and funding for perpetual management of compensatory habitat must be complete before starting Covered Activities, or within 18 months of the effective date of this ITP if Security is provided pursuant to Condition of Approval 9 below for all uncompleted obligations. The Permittee shall also restore on-site 7.93 acres of temporarily impacted Covered Species habitat pursuant to Condition of Approval 8.6 below.

8.1. Cost Estimates. CDFW has estimated the cost of acquisition, protection, and perpetual management of the HM lands and restoration of temporarily disturbed habitat as follows:

- 8.1.1. Land acquisition costs for HM lands identified in Condition of Approval 8.3 below, estimated at \$44,011.00 per acre; for 29.64 acres: **\$1,304,486.00**. Land acquisition costs are estimated using local fair market current value for lands with habitat values meeting mitigation requirements;
- 8.1.2. Start-up costs for HM lands, including initial site protection and enhancement costs as described in Condition of Approval 8.3.5 below, estimated at **\$67,930.00**;
- 8.1.3. Interim management period funding as described in Condition of Approval 8.3.6 below, estimated at **\$77,564.00**;
- 8.1.4. Long-term management funding as described in Condition of Approval 8.4 below, estimated at \$9,000.00 per acre; for 29.64 acres: **\$266,760.00**. Long-term management funding is estimated initially for the purpose of providing Security to ensure implementation of HM lands management.
- 8.1.5. Related transaction fees including but not limited to account set-up fees, administrative fees, title and documentation review and related title transactions, expenses incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW as described in Condition of Approval 8.5, estimated at **\$3,000.00**.
- 8.1.6. Restoration of on-site temporary effects to Covered Species habitat as described in Condition of Approval 8.6, calculated at \$2,175.00 per acre; for 7.93 acres: **\$17,247.00**.

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8.2. Covered Species Credits. Permittee shall purchase 29.64. acres of Covered Species Credits from a CDFW-approved mitigation or conservation bank prior to initiating Covered Activities, or no later than 18 months from the issuance of this ITP if Security is provided pursuant to Condition of Approval 9 below.

OR:

8.3. Habitat Acquisition and Protection. To provide for the acquisition and perpetual protection and management of the HM lands, the Permittee shall:

8.3.1. Fee Title/Conservation Easement. Transfer fee title to the HM lands to CDFW pursuant to terms approved in writing by CDFW. Alternatively, CDFW, in its sole discretion, may authorize a governmental entity, special district, non-profit organization, for-profit entity, person, or another entity to hold title to and manage the property provided that the district, organization, entity, or person meets the requirements of Government Code sections 65965-65968, as amended. If CDFW does not hold fee title to the HM lands, CDFW shall act as grantee for a conservation easement over the HM lands or shall, in its sole discretion, approve a non-profit entity, public agency, or Native American tribe to act as grantee for a conservation easement over the HM lands provided that the entity, agency, or tribe meets the requirements of Civil Code section 815.3. If CDFW does not hold the conservation easement, CDFW shall be expressly named in the conservation easement as a third-party beneficiary. The Permittee shall obtain CDFW written approval of any conservation easement before its execution or recordation. No conservation easement shall be approved by CDFW unless it complies with Government Code sections 65965-65968, as amended and includes provisions expressly addressing Government Code sections 65966(j) and 65967(e);

8.3.2. HM Lands Approval. Obtain CDFW written approval of the HM lands before acquisition and/or transfer of the land by submitting, at least three months before acquisition and/or transfer of the HM lands, a formal Proposed Lands for Acquisition Form (see Attachment 3B) identifying the land to be purchased or property interest conveyed to an approved entity as mitigation for the Project's impacts on Covered Species;

8.3.3. HM Lands Documentation. Provide a recent preliminary title report, initial hazardous materials survey report, and other necessary documents (see Attachment 3A). All documents conveying the HM lands and all conditions of title are subject to the approval of CDFW, and if applicable, the Wildlife Conservation Board and the Department of General Services;

8.3.4. Land Manager. Designate both an interim and long-term land manager approved by CDFW. The interim and long-term land managers may, but need not, be the same. The interim and/or long-term land managers may be the

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landowner or another party. Documents related to land management shall identify both the interim and long-term land managers. Permittee shall notify CDFW of any subsequent changes in the land manager within 30 days of the change. If CDFW will hold fee title to the mitigation land, CDFW will also act as both the interim and long-term land manager unless otherwise specified.

- 8.3.5. Start-up Activities. Provide for the implementation of start-up activities, including the initial site protection and enhancement of HM lands, once the HM lands have been approved by CDFW. Start-up activities include, at a minimum: (1) preparing a final management plan for CDFW approval (see <https://www.wildlife.ca.gov/Conservation/Planning/Banking>); (2) conducting a baseline biological assessment and land survey report within four months of recording or transfer; (3) developing and transferring Geographic Information Systems (GIS) data if applicable; (4) establishing initial fencing; (5) conducting litter removal; (6) conducting initial habitat restoration or enhancement, if applicable; and (7) installing signage;
- 8.3.6. Interim Management (Initial and Capital). Provide for the interim management of the HM lands. The Permittee shall ensure that the interim land manager implements the interim management of the HM lands as described in the final management plan and conservation easement approved by CDFW. The interim management period shall be a minimum of three years from the date of HM land acquisition and protection and full funding of the Endowment and includes expected management following start-up activities. Interim management period activities described in the final management plan shall include fence repair, continuing trash removal, site monitoring, vegetation and invasive species management, annual protocol-level Covered Species surveys, and rangeland monitoring. Permittee shall either (1) provide a security to CDFW for the minimum of three years of interim management that the land owner, Permittee, or land manager agrees to manage and pay for at their own expense, (2) establish an escrow account with written instructions approved in advance in writing by CDFW to pay the land manager annually in advance, or (3) establish a short-term enhancement account with CDFW or a CDFW-approved entity for payment to the land manager.
- 8.4. Endowment Fund. If the Permittee will permanently protect and perpetually manage compensatory habitat as described in Condition of Approval 8.3, The Permittee shall ensure that the HM lands are perpetually managed, maintained, and monitored by the long-term land manager as described in this ITP, the conservation easement, and the final management plan approved by CDFW. After obtaining CDFW approval of the HM lands, Permittee shall provide long-term management funding for the perpetual management of the HM lands by establishing a long-term management fund (Endowment). The Endowment is a sum of money, held in a CDFW-approved

fund that provides funds for the perpetual management, maintenance, monitoring, and other activities on the HM lands consistent with the management plan(s) required by Condition of Approval 8.3.5. Endowment as used in this ITP shall refer to the endowment deposit and all interest, dividends, other earnings, additions and appreciation thereon. The Endowment shall be governed by this ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.

After the interim management period, Permittee shall ensure that the designated long-term land manager implements the management and monitoring of the HM lands according to the final management plan. The long-term land manager shall be obligated to manage and monitor the HM lands in perpetuity to preserve their conservation values in accordance with this ITP, the conservation easement, and the final management plan. Such activities shall be funded through the Endowment.

- 8.4.1. Identify an Endowment Manager. The Endowment shall be held by the Endowment Manager, which shall be either CDFW or another entity qualified pursuant to Government Code sections 65965-65968, as amended. Permittee shall submit to CDFW a written proposal that includes: (i) the name of the proposed Endowment Manager; (ii) whether the proposed Endowment Manager is a governmental entity, special district, nonprofit organization, community foundation, or congressionally chartered foundation; (iii) whether the proposed Endowment Manager holds the property or an interest in the property for conservation purposes as required by Government Code section 65968(b)(1) or, in the alternative, the basis for finding that the Project qualifies for an exception pursuant to Government Code section 65968(b)(2); and (iv) a copy of the proposed Endowment Manager's certification pursuant to Government Code section 65968(e). Within thirty days of CDFW's receipt of Permittee's written proposal, CDFW shall inform Permittee in writing if it determines the proposal does not satisfy the requirements of Fish and Game Code section 2081(b)(4) and, if so, shall provide Permittee with a written explanation of the reasons for its determination. If CDFW does not provide Permittee with a written determination within the thirty-day period, the proposal shall be deemed consistent with Section 2081(b)(4).
- 8.4.2. Calculate the Endowment Funds Deposit. After obtaining CDFW written approval of the HM lands, long-term management plan, and Endowment Manager, Permittee shall prepare a Property Analysis Record (PAR) or PAR-equivalent analysis (hereinafter "PAR") to calculate the amount of funding necessary to ensure the long-term management of the HM lands (Endowment Deposit Amount). The Permittee shall submit to CDFW for review and approval the results of the PAR before transferring funds to the Endowment Manager.

- 8.4.2.1. Capitalization Rate and Fees. Permittee shall obtain the capitalization rate from the selected Endowment Manager for use in calculating the PAR and adjust for any additional administrative, periodic, or annual fees.
 - 8.4.2.2. Endowment Buffers/Assumptions. Permittee shall include in PAR assumptions the following buffers for endowment establishment and use that will substantially ensure long-term viability and security of the Endowment: 10 Percent Contingency.
 - 8.4.2.3. 10 Percent Contingency. A 10 percent contingency shall be added to each endowment calculation to hedge against underestimation of the fund, unanticipated expenditures, inflation, or catastrophic events.
 - 8.4.2.4. Three Years Delayed Spending. The endowment shall be established assuming spending will not occur for the first three years after full funding.
 - 8.4.2.5. Non-annualized Expenses. For all large capital expenses to occur periodically but not annually such as fence replacement, or payments shall be withheld from the annual disbursement until the year of anticipated need or upon request to Endowment Manager and CDFW.
- 8.4.3. Transfer Long-term Endowment Funds. Permittee shall transfer the long-term endowment funds to the Endowment Manager upon CDFW approval of the Endowment Deposit Amount identified above. The approved Endowment Manager may pool the Endowment with other endowments for the operation, management, and protection of HM lands for local populations of the Covered Species but shall maintain separate accounting for each Endowment. The Endowment Manager shall, at all times, hold and manage the Endowment in compliance with this ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.
- 8.5. Reimburse CDFW. Permittee shall reimburse CDFW for all reasonable expenses incurred by CDFW such as transaction fees, account set-up fees, administrative fees, title and documentation review and related title transactions, expenses incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW.
- 8.6. On-Site Restoration/Habitat Enhancement Plan for Temporary Impacts. The plan shall be prepared by a Qualified Biologist or Habitat/Stream Restoration Specialist and submitted for CDFW review and approval in writing a minimum of 30 days prior to the initiation of construction. The plan shall address restoration or enhancement of at least 7.93 acres of Covered Species Habitat as follows:
- 8.6.1. *Annual Grassland Restoration and Enhancement*. All exposed/disturbed soils left barren of vegetation in areas of temporary impact within the I-580 corridor

including staging areas, access roads and upland areas shall be revegetated immediately following work activities. Impacted areas shall be revegetated with native plants and/or saplings, if feasible, or seeded with an erosion control seed mix consisting of native forbs, shrubs, wildflowers, and grasses. Revegetation shall be completed after construction has concluded and as soon as possible after earthmoving activities cease; however, plantings will be most successful if done during the rainy season. Seeding placed after October 15 shall be applied by hydroseed or fiber rolls. Erosion control blankets with monofilament or woven plastic strands shall not be used. The Annual Grassland section of the restoration and enhancement plan shall note areas of impact and proposed areas of seeding. Submission in the form of a map or figure that outlines areas of impacts and areas of re-seeding should also be included. At the discretion of CDFW, all exposed areas where seeding is unsuccessful after 90 days shall receive appropriate soil preparation and a second application of seeding or mulch as soon as is practical on a day mutually agreed upon with CDFW.

- 8.6.2. *Covered Species Connectivity Monitoring Plan.* A minimum of 30 days prior to the initiation of construction the Permittee shall submit a monitoring plan for Covered Species to address connectivity within the Project Area segment of the I-580 corridor. The study should include proposed fencing array designs, culverts, underpasses or areas of potential connectivity use and a monitoring protocol utilizing camera's, track plates and the best available science for the Covered Species.

9. Performance Security

The Permittee may proceed with Covered Activities only after the Permittee has ensured funding (Security) to complete any activity required by Condition of Approval 8 that has not been completed before Covered Activities begin. Permittee shall provide Security as follows:

- 9.1. Security Amount. The Security shall be in the amount of **\$1,736,987.00**. This amount is based on the cost estimates identified in Condition of Approval 8.1 above.
- 9.2. Security Form. The Security shall be in the form of an irrevocable letter of credit (see Attachment 4) or another form of Security approved in advance in writing by CDFW's Office of the General Counsel.
- 9.3. Security Timeline. The Security shall be provided to CDFW before Covered Activities begin or within 30 days after the effective date of this ITP, whichever occurs first.
- 9.4. Security Holder. The Security shall be held by CDFW or in a manner approved in advance in writing by CDFW.

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- 9.5. Security Transmittal. If CDFW holds the Security, Permittee shall transmit it to CDFW with a completed Mitigation Payment Transmittal Form (see Attachment 5) or by way of an approved instrument such as escrow, irrevocable letter of credit, or other.
- 9.6. Security Drawing. The Security shall allow CDFW to draw on the principal sum if CDFW, in its sole discretion, determines that the Permittee has failed to comply with the Conditions of Approval of this ITP.
- 9.7. Security Release. The Security (or any portion of the Security then remaining) shall be released to the Permittee after CDFW has conducted an on-site inspection and received confirmation that all secured requirements have been satisfied, as evidenced by:
- Written documentation of the acquisition of the HM lands;
 - Copies of all executed and recorded conservation easements;
 - Written confirmation from the approved Endowment Manager of its receipt of the full Endowment; and
 - Timely submission of all required reports
 - Achievement and/or initiation of restoration success criteria and study concepts noted in Condition of Approval 8.6

Even if Security is provided, the Permittee must complete the required acquisition, protection and transfer of all HM lands and record any required conservation easements no later than 18 months from the effective date of this ITP. CDFW may require the Permittee to provide additional HM lands and/or additional funding to ensure the impacts of the taking are minimized and fully mitigated, as required by law, if the Permittee does not complete these requirements within the specified timeframe.

Amendment:

This ITP may be amended as provided by California Code of Regulations, Title 14, section 783.6, subdivision (c), and other applicable law. This ITP may be amended without the concurrence of the Permittee as required by law, including if CDFW determines that continued implementation of the Project as authorized under this ITP would jeopardize the continued existence of the Covered Species or where Project changes or changed biological conditions necessitate an ITP amendment to ensure that all Project-related impacts of the taking to the Covered Species are minimized and fully mitigated.

Stop-Work Order:

CDFW may issue Permittee a written stop-work order requiring Permittee to suspend any Covered Activity for an initial period of up to 25 days to prevent or remedy a violation of this

ITP, including but not limited to the failure to comply with reporting or monitoring obligations, or to prevent the unauthorized take of any CESA endangered, threatened, or candidate species. Permittee shall stop work immediately as directed by CDFW upon receipt of any such stop-work order. Upon written notice to Permittee, CDFW may extend any stop-work order issued to Permittee for a period not to exceed 25 additional days. Suspension and revocation of this ITP shall be governed by California Code of Regulations, Title 14, section 783.7, and any other applicable law. Neither the Designated Biologist nor CDFW shall be liable for any costs incurred in complying with stop-work orders.

Compliance with Other Laws:

This ITP sets forth CDFW's requirements for the Permittee to implement the Project pursuant to CESA. This ITP does not necessarily create an entitlement to proceed with the Project. Permittee is responsible for complying with all other applicable federal, state, and local law.

Notices:

The Permittee shall deliver a fully executed duplicate original ITP by registered first class mail or overnight delivery to the following address:

Habitat Conservation Planning Branch
California Department of Fish and Wildlife
Attention: CESA Permitting Program
Post Office Box 944209
Sacramento, CA 94244-2090

Alternatively, the Permittee shall email the digitally signed ITP to CESA@wildlife.ca.gov. Digital signatures shall comply with Government Code section 16.5.

Written notices, reports and other communications relating to this ITP shall be delivered to CDFW by registered first class mail at the following address, or at addresses CDFW may subsequently provide the Permittee. Notices, reports, and other communications shall reference the Project name, Permittee, and ITP Number (2081-2020-052-03) in a cover letter and on any other associated documents.

Original cover with attachment(s) to:

Gregg Erickson, Regional Manager
California Department of Fish and Wildlife – Bay Delta Region
2825 Cordelia Road, Suite 100
Fairfield, CA 94534
Telephone: (707) 428-2002
R3CESA@wildlife.ca.gov

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and a copy to:

Habitat Conservation Planning Branch
California Department of Fish and Wildlife
Attention: CESA Permitting Program
Post Office Box 944209
Sacramento, CA 94244-2090
CESA@wildlife.ca.gov

Unless Permittee is notified otherwise, CDFW's Regional Representative for purposes of addressing issues that arise during implementation of this ITP is:

Robert Stanley, Senior Environmental Scientist (Specialist)
California Department of Fish and Wildlife, Bay Delta Region – 3
2825 Cordelia Road, Suite 100
Fairfield, CA 94534
Telephone (707) 428-2093
Robert.Stanley@wildlife.ca.gov

Compliance with CEQA:

CDFW's issuance of this ITP is subject to CEQA. CDFW is a responsible agency pursuant to CEQA with respect to this ITP because of prior environmental review of the Project by the lead agency, California Department of Transportation. (See generally Pub. Resources Code, §§ 21067, 21069). The lead agency's prior environmental review of the Project is set forth in the Interstate 580 Safety Lighting and Power Supply Installation Project, Mitigated Negative Declaration (SCH No. 2019109033) dated April 2020 that the California Department of Transportation adopted for the Interstate 580 Safety Lighting and Power Supply Installation Project on May 19, 2020 prepared by the California Department of Transportation. At the time the lead agency adopted the MND and approved the Project it also adopted various mitigation measures for the Covered Species as conditions of Project approval.

This ITP, along with CDFW's related CEQA findings, which are available as a separate document, provide evidence of CDFW's consideration of the lead agency's MND for the Project and the environmental effects related to issuance of this ITP [CEQA Guidelines, § 15096, subd. (f)]. CDFW finds that issuance of this ITP will not result in any previously undisclosed potentially significant effects on the environment or a substantial increase in the severity of any potentially significant environmental effects previously disclosed by the lead agency. Furthermore, to the extent the potential for such effects exists, CDFW finds adherence to and implementation of the Conditions of Project Approval adopted by the lead agency, and that adherence to and implementation of the Conditions of Approval imposed by CDFW through the issuance of this ITP, will avoid or reduce to below a level of significance any such potential effects. CDFW consequently finds that issuance of this ITP will not result in any significant, adverse impacts on the environment.

Incidental Take Permit
No. 2081-2020-052-03

CALIFORNIA DEPARTMENT OF TRANSPORTATION – DISTRICT 4
INTERSTATE-580 SAFETY LIGHTING AND POWER SOURCE INSTALLATION PROJECT

Findings Pursuant to CESA:

These findings are intended to document CDFW's compliance with the specific findings requirements set forth in CESA and related regulations. [Fish and Game Code § 2081, subs. (b)-(c); Cal. Code Regs., tit. 14, §§ 783.4, subs. (a)-(b), 783.5, subd. (c)(2)].

CDFW finds based on substantial evidence in the ITP application, Interstate 580 Safety Lighting and Power Supply Installation Project, the results of site visits, consultations and meetings, and the administrative record of proceedings, that issuance of this ITP complies and is consistent with the criteria governing the issuance of ITPs pursuant to CESA:

- (1) Take of Covered Species as defined in this ITP will be incidental to the otherwise lawful activities covered under this ITP;
- (2) Impacts of the taking on Covered Species will be minimized and fully mitigated through the implementation of measures required by this ITP and as described in the MMRP. Measures include: (1) permanent habitat protection; (2) establishment of avoidance zones; (3) worker education; and (4) Monthly Compliance Reports. CDFW evaluated factors including an assessment of the importance of the habitat in the Project Area, the extent to which the Covered Activities will impact the habitat, and CDFW's estimate of the acreage required to provide for adequate compensation. Based on this evaluation, CDFW determined that the protection and management in perpetuity of 29.64 acres of compensatory habitat that is contiguous with other protected Covered Species habitat and/or is of higher quality than the habitat being destroyed by the Project, along with the minimization, monitoring, reporting, and funding requirements of this ITP minimizes and fully mitigates the impacts of the taking caused by the Project;
- (3) The take avoidance and mitigation measures required pursuant to the conditions of this ITP and its attachments are roughly proportional in extent to the impacts of the taking authorized by this ITP;
- (4) The measures required by this ITP maintain Permittee's objectives to the greatest extent possible;
- (5) All required measures are capable of successful implementation;
- (6) This ITP is consistent with any regulations adopted pursuant to Fish and Game Code sections 2112 and 2114;
- (7) Permittee has ensured adequate funding to implement the measures required by this ITP as well as for monitoring compliance with, and the effectiveness of, those measures for the Project; and

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(8) Issuance of this ITP will not jeopardize the continued existence of the Covered Species based on the best scientific and other information reasonably available, and this finding includes consideration of the species' capability to survive and reproduce, and any adverse impacts of the taking on those abilities in light of (1) known population trends; (2) known threats to the species; and (3) reasonably foreseeable impacts on the species from other related Projects and activities. Moreover, CDFW's finding is based, in part, on CDFW's express authority to amend the terms and conditions of this ITP without concurrence of the Permittee as necessary to avoid jeopardy and as required by law.

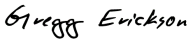
Attachments:

- FIGURE 1 Project Location Map
- FIGURE 2 Project Physical Impacts Map
- FIGURE 3 Project Elements Map
- FIGURE 4 Proposed Isolux Values Map

- ATTACHMENT 1 Mitigation Monitoring and Reporting Program
- ATTACHMENT 2A, 2B Habitat Management Lands Checklist; Proposed Lands for Acquisition Form
- ATTACHMENT 3 Letter of Credit Form
- ATTACHMENT 4 Mitigation Payment Transmittal Form

ISSUED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

on 5/24/2021

DocuSigned by:

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 Gregg Erickson, Regional Manager
 Bay Delta Region

ACKNOWLEDGMENT

The undersigned: (1) warrants that he or she is acting as a duly authorized representative of the Permittee, (2) acknowledges receipt of this ITP, and (3) agrees on behalf of the Permittee to comply with all terms and conditions.

By:  _____ Date: 5/27/2021

DocuSigned by: Emmanuel Okereke
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Printed Name: Emmanuel Okereke Title: Project Manager

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